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BALLINGER HAS DEFENSE

Secretary Strikes Back at Accusers in Undoubted Language.

VERBAL VITROIL POURED ON HEADS OF ACCUSERS

"When Constitutional Cloak is Left Behind, Official Becomes a General Menace."

Williamstown, Mass., Jan. 22.—Defending himself in general terms against the charge of being too great a stickler for observance of the law in the administration of public affairs, Secretary Ballinger, in an address delivered here tonight, struck back at his accusers in language as pointed as the occasion would permit.

His remarks were rendered especially significant because they were made on the eve of the proposed congressional investigation into Ballinger's conduct of the interior department.

He mentioned no names, but made free use of the "muckraker" as connected with politicians and the press.

The address was delivered before the Good Government club of Williamstown. The subject was "The Executive Functions under the Constitution."

Mr. Ballinger placed himself squarely on the proposition that "when the public officer transcends the powers with which the constitution and the laws clothe him, he becomes a menace to popular rights and to all the safeguards surrounding them," and declared that "constitutional and legal restraint are to some people inconvenient and often obnoxious, especially when they obstruct the pathway to selfish ambitions."

Dwelling upon the danger of disregarding constitutional and legal restraints, Mr. Ballinger added:

"When this seductive method of exercising power falls into the hands of clever politicians, the unthinking people flock to their standards, with the 'muckrakers' and 'penny-liners,' as their press support. We have been surprised for a long time with this kind of public men, who secure their vagaries have been seized upon by the faddist and sentimentalist for exploitation so that on many public questions the public mind is in a ferment of uncertainty and alarm."

Chivalric Absurdity.

"These persons, playing the part of Don Quixote, in their chivalric absurdity, see visions of great crimes about to be visited upon the dear people, and they herald the supposed machinations of the various enemies of popular rights in all seriousness. Those who do not become hysterical over their tales of dire calamity and calmly asked for facts are charged with being in league with the accomplices of these imaginary criminals."

The most vicious demagogue is he who sounds a false alarm, which arouses prejudices that strike at the foundations of our government, which disturb the public mind as to the necessity for observance of the laws of the land.

"Again, some public officers make the mistake of assuming that they have been commissioned by a higher authority than the people, that is, by their own assumed indispensable qualities of fitness to govern. They usually become political autocrats and do more mischief than good."

"Public servants of this class are the least amenable to the constitution or the law, for they are generally harder to get at from the standpoint of popular disfavor."

Discussing the administration policy the secretary said the answer must be understood to imply that there can be no policy that does not keep within the law and undertake to administer it with intelligent vigor and fidelity.

Some Legal Pointers.

"The activities of an executive officer which seeks to improve and correct imperfections of administration is one thing, but it is quite a different thing when he undertakes to correct what he believes to be the shortcomings of the law without legal warrant therefor."

"This is a legislative function and not executive," he said.

"No one will say that the executive can regulate or control interstate commerce without the authority of congress. In laws defining the extent to which the executive power may be exercised and in the administration of the public domain the issuance of pensions, or of patents, the interior department possesses no authority which does not flow from the acts of congress prescribing the manner and means of the sale and disposition of the public lands, the granting of pensions or of patents. Not an acre of the public lands can be sold or otherwise disposed of contrary to the express declaration of the law making power."

"The executive cannot at will improve the wild lands or mine the minerals, log the timber or water the arid wastes. He cannot give even qualified rights or privileges to say of the public domains, unless the backing power affirmatively so declares. There is no discretion, or supervisory power or executive control, except in the execution of specific or general laws. This is plain to any person who considers the nature of our institutions, and the powers lodged in executive offices."

Mr. Ballinger declared boldly that those who are unfamiliar with the west and who, because of a want of knowledge of confidence which make life on the frontier possible, are poorly qualified to place limitations on those who are to struggle with nature in the building of home and

SWOPE'S DOCTOR, WHO ATTENDED HIM IN HIS LAST ILLNESS



DR. B. C. HYDE

Kansas City, Jan. 22.—Dr. B. C. Hyde, who attended Colonel Thomas H. Swope, the millionaire philanthropist of this city, in his mortal illness, is the husband of the former Miss Frances Swope, niece of Colonel Swope. The death of Colonel Swope and his nephew, Chrisman Swope, and the illness of several members of the Swope family are under investigation by Dr. Hyde's wife received under the will \$175,000 from Colonel Swope's large estate. The Chrisman Swope death certificate bears the signature of Drs. Hyde and G. P. Tryman. The Thomas H. Swope certificate is signed only by Dr. Hyde. Dr. Hyde has practiced medicine in Kansas City about twelve years. He was formerly police surgeon.

OGDEN MAY GET A NEW THEATRE

Formation of Western Trust May Include Cities of Utah.

San Francisco, Cal., Jan. 22.—

What is said to be the initial step in the formation of a stock theater trust in the west was taken today when the interests of the five principal stock theaters on the Pacific coast were merged. This action followed a two days' conference between the managers and is the outcome of a movement recently started in New York by Frederic Belasco.

The object of the combination is to avoid rivalry in obtaining plays and engaging actors and thereby control the stock field in the west.

While the combine at present only includes San Francisco, Los Angeles, Portland, Seattle and Spokane, it is said that it soon will be extended to Salt Lake City, Denver, Helena and other western cities, including Ogden, Boise and Butte.

NEW COMET SEEN.

Washington, Jan. 22.—The new comet, outshining Venus in brilliancy, was visible in the sky here tonight. Along the Atlantic seaboard in the south, where the skies are not clouded it can be most clearly seen.

Toledo, Ohio, Jan. 22.—Rev. Father Hillig, professor of astronomy at St. John's college, saw the new comet tonight, just after sunset. It was plainly visible to the naked eye. The comet appears southeast to the right of Venus and between Venus and the horizon.

QUEEN OF CLUBS BROKE.

New York, Jan. 22.—Mrs. Dore Lyon, known as the "Queen of Clubs," filed a petition in bankruptcy today as a pauper with liabilities of \$508,236 and assets consisting only of her copyright of a novel written several years ago.

Mrs. Lyon was for several years a foremost figure in the women's organizations of this city and state. She was formerly president of the New York City Federation of Women's clubs and of the Electric club.

SUGAR SUIT DISMISSED.

New York, Jan. 22.—The \$30,000,000 suit brought under the Sherman anti-trust law against the American Sugar Refining company in connection with its absorption of the Pennsylvania Sugar Refining company, was formally discontinued today by Judge Lacombe in the United States circuit court. The court upholds the Philadelphia courts in the approval of the private settlement reached between the two companies.

settlements on the plains and on the reaches of mountains far beyond the Mississippi.

As going to show the administration and the laws will permit executive activities are being pursued in order to secure the increase of soil production, the preservation of the forests and fuel supply, the use and control of stream flow, the preservation of natural parks and monuments of historic ruins and scenic grandeur.

"All these things and others are desirable to attain and they appeal to the American people as within the functions of the government to secure. When the federal authority may not properly control and supervise the work of conserving our natural resources, the state governments can, and after all it is a matter that the people can and will control and regulate."

AWFUL SCENE AFTER WRECK

Relief Parties Labor During Storm With Sad Task Almost Hopeless.

DEATH LIST, FOLLOWING ACCIDENT GROWS LARGER

Fire Adds to Horrors When Canadian Pacific Train Leaves the Rails.

Subury, Ont., Jan. 22.—With three big dray loads of rough boxes waiting to receive the bodies of two more victims, the scene of yesterday's Canadian Pacific wreck at Spanish River presented today an almost field of labor for the one hundred or more men sent to clear away the debris and recover the victims' bodies. A storm raged all day.

Two of the wrecked cars drifted under the bridge today and were completely submerged. The dining car remained partly on the river bank and partly submerged.

Little remains of the second class coach, which was split in two when it struck the bridge girder and took fire. Ice has closed over the first class coach and the dining car and it is impossible to determine their exact location. More than thirty injured were taken to the general hospital and the hotels of Subury.

The known dead:

JOSEPH HEMAULL, Matheson, Ont.

S. Z. OTMAN, Chisholm, Minn.

NICHOLAS NICHOLANKO, Chisholm, Minn.

MRS. C. HOUE, Sault Ste. Marie, Mich.

M. SPINKOZOM, MIKE WICKLIUKO, LAKEDOF HARPI, JOSEPH MAROTT, address unknown.

JOS. ROSBACK, North Bay, Ont.

GEORGE McILHENNY, North Bay, Ont.

WILL LAVERY, North Bay, Ont.

The number of bodies lying in the submerged cars may not be known for many days.

The wreck occurred on a 200-foot steel bridge, with overhead girders, and a 30-foot embankment sloping down to the Spanish river underneath.

Fire Adds to Horror.

The engine, combination mail and baggage car and express car had passed safely over the bridge when the forward trucks of the second class coach jumped the track. The car struck an immense steel girder with such terrific force as to snap the girder in two and split the car as with a cleaver. The rear of the second class coach swerved to one side, pulling the dining car, first class coach and diner off the bridge into the river and tipping over the Pullman beside the track.

Fire added to the horror of the accident.

A few survivors are in condition to give accurate details of the accident. E. J. Pearce, a commercial traveler of Toronto, who with Brakeman Morrison is thought to be the only survivor from the first class coach, gave a graphic account of his experience.

Mr. Pearce, finding himself struggling in water, reached the fan light in the end of the car, broke the glass and screen, worked through with his face badly cut and scratched. Running along the top of the first class car, he found a space of six feet separating it from the dining car. Reaching his life on the floating ice, he almost reached the diner when he lost his footing and was plunged into the icy water. But a projecting pipe from the roof of the diner was within his reach and, climbing up by means of the pipe, he ran along the top of the diner to the shore.

The telegraph wires were all torn down and it was evident relief could not be summoned by wire. It was five miles to the village of Nairn and the ditched survivor ran the distance to deliver a report of the wreck at the Canadian Pacific depot at Nairn.

Meanwhile Conductor Thomas Reynolds rescued eight passengers from the sunken dining car. When the wreck occurred, Reynolds with W. J. Bell and David Brodie, had just sat down to dinner. Bell and Brodie were facing the engine and Reynolds sat opposite them, riding backwards. The diner was the last car to enter the water and did not sink at once, but settled slowly while the passengers climbed up on the tables to keep their heads above water.

With several passengers in water up to their chins, the situation was desperate. Conductor Reynolds made a dive for a window, broke the glass and succeeded in rising to the surface of the river outside the car. With one arm on the roof of the car and the other on the ice he rested a moment.

Gaining the roof of the car, he broke a fan light with his fist and rescued little Alfonso Roussel of Sault Ste. Marie. Several others were taken out through a hole broken in the roof of the car.

It is said Mrs. Choude, aunt of the little boy who was rescued, was almost saved, with the others, but slipped back into the water and was drowned.

MISTAKE FATAL.

Denver, Colo., Jan. 22.—Mistaking a bottle of strychnine for one containing bromo seltzer, Mrs. Kate Jones last night took enough of the poison to kill a dozen persons and died before a physician could be summoned. The woman went to the cupboard in the dark and got the wrong bottle, the poison having been placed there out of the reach of her three-year-old son.

MRS. REID WHO INHERITS \$30,000,000; THREE OTHER VERY RICH WOMEN



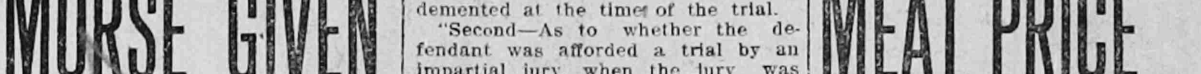
MRS. RUSSELL SAGE

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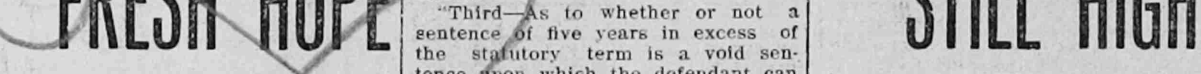
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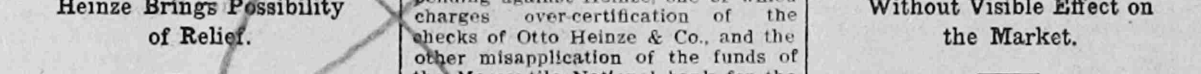
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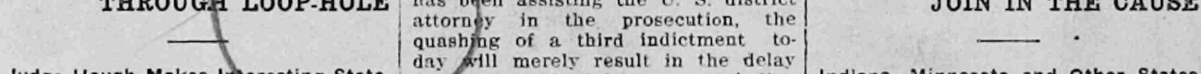
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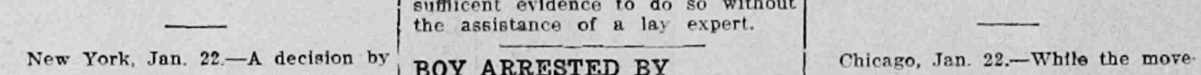
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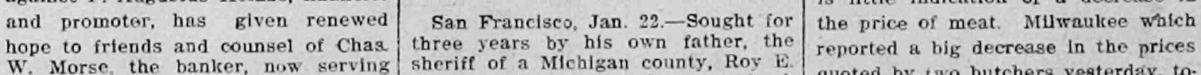
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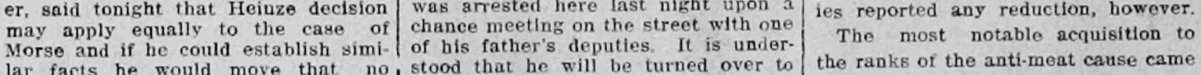
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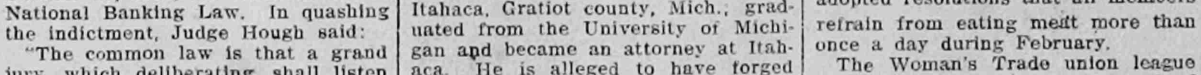
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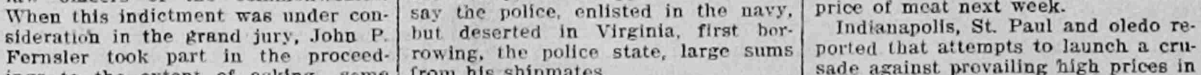
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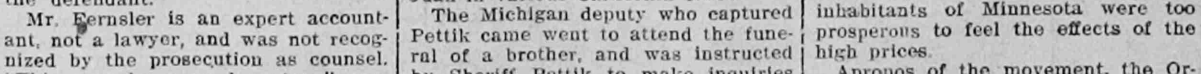
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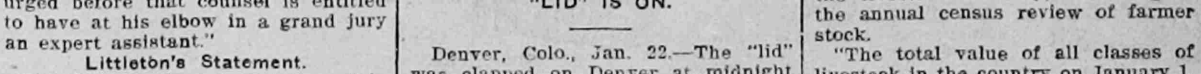
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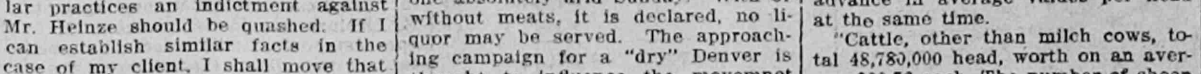
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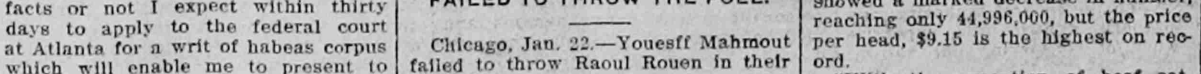
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FIGHT WILL TEST LAWS

Thompson-Sullivan Contest Announced for Ogden Has Significance.

EFFORT MAY MAKE IT FIGHT TO FINISH

Indications That Contest Will Be Held to Settle Question of Legal Boxing.

That the approaching "boxing contest" between Johnny Thompson and Peter Sullivan, who it is announced has been matched to fight in Ogden on February 11th, will in reality be a finish fight with a view to testing the state laws in order to determine the standing before the proposed Jeffries-Johnson match is pulled off is the latest talk of local sportsworld and there is reason to believe that the facts substantiate this gossip.

While R. A. Grant is ostensibly the promoter, it is said that Tex Rickard, J. E. Langford and associates who have charge of the heavyweight world's championship contest are in reality back of the Thompson-Sullivan match with the understanding that the law will be tested.

In view of statements made by the governor and the position taken by other authorities, it is reasonable to suppose that the promoters would make an effort to "feel the official pulse" before going further with the big contest.

An Understanding Existed.

Before the recent Sullivan-Collins match during the Wool Growers' convention that no decision was to be rendered and it was agreed that there should be no knock-out. Little protest was entered from public or officials either before or after the fight and this, it is believed, has encouraged promoters to attempt a more daring test in the same direction. As a matter of fact no attempt was ever made to conceal the "no-decision" feature of the bout.

It may be safely said then that a good deal depends upon the success or failure of the approaching bout at Ogden and considerable interest was awakened following last night's announcement that Sullivan and Thompson have been matched.

"Cyclone Johnny," who is a favorite in local sportsworld and is regarded as an adopted son, obtained much of his popularity through his willingness to "take a chance" on other occasions when there was some doubt about "re-opening" the boxing game in this city, and it is known that he is not averse to making another attempt in the same direction.

Pete Sullivan is just as game and nearly as popular locally.

There is little doubt, therefore, that the bout, if staged here, as announced, will test the sentiment, whether Rickard is actually interested financially or not.

The bout between Thompson and Sullivan, even though the finish fight should be abandoned and the match should develop into another "exhibition match" promises to be highly interesting and it is likely that it will attract the largest gathering that has ever surrounded a prize ring in Utah. Thompson and Sullivan have fought three times before—twice at Ogden—and honors are about evenly divided, with a shade in favor of the latter, he having secured a decision at the end of a 20-round encounter a year ago. Prior to that time Thompson, having scored a knockout in a fight at the Hot Springs, held the honors.

While no one questions the sincerity of Governor Spry there appears to be some doubt as to the legality of the state laws on this subject and there is a question whether the enforcement would carry a penalty severe enough to stop a finish fight. Tests made in local courts a year or two ago indicated that the manipulator of bouts would have a comparatively easy time of it so far as the strength of the laws themselves was concerned.

At Chalons, where the fight was held, the state laws were tested and the result was a decision in favor of the latter, he having secured a decision at the end of a 20-round encounter a year ago. Prior to that time Thompson, having scored a knockout in a fight at the Hot Springs, held the honors.

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MORSE GIVEN FRESH HOPE

Decision Quashing Indictment of Heinze Brings Possibility of Relief.

FINANCIER MAY ESCAPE THROUGH LOOP-HOLE

Judge Hough Makes Interesting Statement in Destroying the Charges Against Magnate.

New York, Jan. 22.—A decision by Judge Hough in the United States court today quashing the indictment against F. Augustus Heinze, financier and promoter, has given renewed hope to friends and counsel of Chas. W. Morse, the banker, now serving a term of 15 years in the federal prison at Atlanta, Ga.

Martin W. Littleton, Morse's lawyer, said tonight that Heinze decision may apply equally to the case of Morse and if he could establish similar facts he would move that no valid indictment was found against his client.

Heinze was indicted on October 12, 1909, for violation of the National Banking Law. In quashing the indictment, Judge Hough said:

"The common law is that a grand jury, which deliberating, shall listen to witnesses who give testimony and to no one else, except the authorized law officers of the commonwealth. When this indictment was under consideration in the grand jury, John P. Fernier took part in the proceedings to the extent of asking some technical questions of other expert witnesses thought to be allied with the defendant."

Mr. Fernier is an expert accountant, not a lawyer, and was not recognized by the prosecution as counsel. "This may be a good system," continues the court, "but it has never been adopted by law. It has never been urged before that counsel is entitled to have at his elbow in a grand jury an expert assistant."

Littleton's Statement.

Mr. Littleton issued a statement in part as follows:

"It has been brought to my attention that the method by which the indictments against Morse were procured included the service before the grand jury of a non-professional official, designated by the federal government. As I understand it the court had determined that, for similar practices an indictment against Mr. Heinze should be quashed. If I can establish similar facts in the case of my client, I shall move that no valid indictment was found against him."

"But whether I can establish such facts or not I expect within thirty days to apply to the federal court at Atlanta for a writ of habeas corpus which will enable me to present to the court these questions:

"First, as to whether the court was a constitutional court within the meaning of the constitution, it being

MEAT PRICE STILL HIGH

Boycott Continues Its Spread Without Visible Effect on the Market.

TWENTY-ONE LODGES JOIN IN THE CAUSE

Indiana, Minnesota and Other States Attempt Movement but Meet Failure.

Chicago, Jan. 22.—While the movement to combat the high price of food continued its spread today, there is little indication of a decrease in the price of meat. Milwaukee which reported a big decrease in the prices quoted by two butchers yesterday, today showed a general reduction in many places. None of the other cities reported any reduction, however.

The most notable acquisition to the ranks of the anti-meat cause came from Louisville, when twenty-one lodges of a fraternal organization adopted resolutions that all members refrain from eating meat more than once a day during February.

The Woman's Trade union league and the Building Trades Council of St. Louis announced today that they would take action against the high price of meat next week.

Indianapolis, St. Paul and Toledo reported that attempts to launch a crusade against prevailing high prices in those cities had failed. From St. Paul came the report that labor commissioner, McEwen, had declared the inhabitants of Minnesota were too prosperous to feel the effects of the high prices.

Appropos of the movement, the Orange Judd Farmer says 1909 was the most prosperous year ever known in the livestock industry, according to the annual census review of farmer stock.

"The total value of all classes of livestock in the country on January 1, 1910, was \$4,850,068,000," says that paper.

"The increase during 1909 was the greatest ever recorded in 12 months, amounting to \$560,000,000."

"There is an increase in the numbers of all classes of animals except beef, cattle and hogs, showing an increase in numbers and a heavy advance in average values per head at the same time."

"Cattle, other than milch cows, total 48,780,000 head, worth on an average \$20.76 each. The number of sheep is increasing rapidly and now stands 54,726,000, worth \$4.0